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SUBJECT: Recent Developments in Regard to Imports of U.S. Coal into West Germany

TK-3-FRB-3 OSD-4-LAB-S

Note.--The following report is based on conversations with Mr. Richard LEGENHAUSEN, partner in Carl Moontzen & Co., Bremen, the largest coal importing firm in the consular district, and an official in the Office of the Senator for Economics, Bremen, and a press conference given in Bremen by Mr. Hellmuth HELMBECK, Press Chief of Unternehmensverband Ruhrbergbau (Ruhr Coal Miners' Association), Essen.

SUMMARY

In the tug-of-war between the coal importers, who stand to lose a substantial portion of their business, and the coal mining industry, which demands a drastic curtailment of imports, it appears the latter has won out, at least so far as imports during 1959 are concerned.

Importers are concerned particularly over the low duty-free quotas provided in the bill the Federal Government has now decided to introduce with a view to limiting coal imports from non-EGSC countries.

Importers stated the Economics Ministry had previously suggested a duty-free quota of 5 to 5.5 million tons for U.S. coal, but that the Federal Cabinet had decided upon a more drastic reduction in view of the implications of the problem in German internal politics. The four coastal Laender, i.e. Bremen, Hamburg, Schleswig-Holstein, and Lower Saxony will probably ask for higher duty-free quotas when the matter is submitted to the Bundesrat.

Importers who had in hand valid import licenses totaling 34 million tons of U.S. coal, under which they intended to import about 17 million during 1959, protested against the proposed restrictions, pointing to the increase in the cost of primary energy to West German industries consequent to a restriction of imports. They feel that the Coal-Oil Cartel Agreement, which has been applied for, does not exclude the possibility that a

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considerable part of the reduced coal imports will be made up by higher imports of fuel oil which will not be subject to import duty.

Importers feel that there may still be some chance for reaching a compromise more favorable to U.S. coal prior to the decision of Bundesrat and Bundestag, particularly if the United States, as well as the Laender, will bring its influence to bear in that respect.

* * *

Analysis of Existing Coal Contracts and Licenses

Mr. Legenhausen stated that import licenses for about 39 million tons of U.S. coal had been recertified by the "Bundesrat", Essen, as a result of its examination of contracts last October. Of those, contracts for about 5 million tons have been canceled meanwhile by negotiation between the parties involved. Out of the remaining licenses for about 34 million tons, about 17 million tons refer to licenses under which importers had declared their intention to make imports during calendar year 1959. However, freight contracts have so far been entered into for only about 8 million tons. In a recent meeting at the Federal Economics Ministry, which the importer personally attended, it was estimated that out of the latter, about 2½ million tons were destined for Southern Germany and about 5½ million tons for the German coastal area.

Press Chief Helmbeck, of the Ruhr Miners' Association, stated that, according to information obtained by the three representatives of the Ruhr mines, Helmuth BURCKHARDT, Heinz P. KEMPER, and E. ROUSSILL, during their recent visit to the United States, the contracts which had been concluded with American mines amounted to only about 18 million tons of coal to be delivered during a period of three years. Licenses in excess of that quantity are considered by the Ruhr coal mining industry as "Schaum" (foam) or, according to American nomenclature, as "hunting licenses" under which importers are hunting for new contracts with German consumers.

Mr. Legenhausen doubted the reliability of the information which the miners' representatives had allegedly obtained during their recent visit to the United States. The industry had mentioned a figure of between 15 and 18 million tons of coal as contracted by American mines already before the delegation left for the United States. According to information

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received by his firm from one of its American exporters, who attended the meeting with the representatives of the Ruhr mines, no such figure had been supplied by the Americans. In addition, the American representatives at that meeting reportedly stated that any restriction of imports by Government action was considered as objectionable and might lead to retaliatory action. Mr. Legenhausen was under the impression that the Ruhr coal representatives had more or less represented their own views as those of the Americans.

Attitude of the Coal Mining Industry

According to Press Chief Helmbeck, the industry's representatives reported that the Americans are not concerned over coal exports in excess of the 18 million tons contracted by the mines for delivery during a period of three years, although they would resent any discrimination against American coal, as opposed to other non-ECSC coal imports, as a result of measures which the West German Government may take in order to limit overall imports. According to the industry's intentions, the contracts already concluded with the American mines are not to be changed. With regard to the Federal Government's decision to introduce a duty on imported coal, he intimated the problem involves also legal considerations, as there might be a possibility of claims for losses which might be made against the Government by importers or consumers who have contracts they entered into under licenses which were valid under the regulations in force when the contracts were concluded.

Mr. Helmbeck stated that, after the exclusion of the larger part of the existing licenses, the Coal-Oil Cartel which has been applied for recently ^{1/} would eliminate an immoderate growth in the use of fuel oil, although definite agreement on the price lists to be effective for the sale of heavy fuel oil in West Germany had not yet been reached.

He pointed to the political implications of the present plight in the coal mining industry which made it imperative to find a solution which would be effective immediately. As to the probable long-term developments in the demand for primary energy in West Germany, opinions differ. However, if the coal industry had to scale down its production by about 14-15 million tons a year, it would mean the dismissal of about 100,000 miners.

^{1/} An Embassy Bonn, D-1031, January 9, 1959, entitled "Application for Coal-Oil Cartel Agreement".

Mr. Helmbeck, upon questioning by some of the persons who attended the conference, stated that under the ECSC Treaty, West Germany is placed in an awkward position. While it is forced to export definite quantities of coal to designated countries - a clause which stemmed from the times of coal shortage in Europe - West Germany is not entitled to require these countries to take delivery of the quantities established under the Treaty. As an example, he mentioned that Italy has turned to American coal almost completely.

Attitude of Coal Importers

Coal importers, who are now united in a top organization named "Verein Deutscher Kohlenimporteure", with headquarters in Hamburg, have protested against the introduction of either a customs duty on coal, or a quota system.

Mr. Legenhausen stated that the pending licenses for about 9 million tons of coal, for which freight contracts have not yet been concluded, but under which importers intended to import coal during 1959, represent valid licenses which should neither be withdrawn, nor restricted in any way. American coal currently is about DM 20-25 per ton cheaper than Ruhr coal, and the West German industry needs primary energy at the lowest possible cost in order to remain competitive. If coal imports are restricted, it will mean that the price of electricity will have to be raised.

He also stated that there is no "escape clause" in the contract of importers with American exporters which would permit them to request a cancellation of contracts in view of unforeseen Government measures. At the time of conclusion of these contracts, Government approval was given under the regulations then in force.

More importantly, he felt that if coal imports should now be restricted, imported fuel oil would take their place to a considerable extent. The Coal-Oil Cartel which has been applied for, but which has not yet come into effect, would bind only the domestic producers of heavy fuel oil. Although importers of fuel oil have been invited to join the agreement, there is no assurance that all of them will do so. In addition, the cartel agreement does not prevent other firms from entering into the fuel oil import trade. Calculated on the basis of thermal units, fuel oil can be imported even today at a lower price than that for domestic coal. Furthermore, prices for imported fuel oil may drop in the future. The list-prices to be established under the intended Coal-Oil Cartel are based on the "world market price" for heavy fuel oil, which is the price of the fuel oil f.o.b. port of shipment plus the average freight rate under all contracts. However, since current freight rates are considerably below the average, imports of fuel oil are possible at a lower than the "world market price" at present. In Mr. Legenhausen's opinion, the restriction of coal imports, with no restriction on

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fuel oil imports, will ultimately lead to a situation where coal in general, i.e. domestic and imported, will lose a further share in the overall West German consumption of fuel for primary energy.

Mr. Legenhausen is of the opinion that the policy of the coal mining industry is short-sighted. The Cartel agreement is intended to be in force until December 31, 1960, as far as price-fixing for heavy fuel oil is concerned. After that time, the coal mining industry will again be faced with the necessity of competing with fuel oil, which is a residual product of crude oil refining, and will be produced in growing quantities, in accordance with the increase in motorization. In his opinion, the remedy of the present situation is in closing down uneconomic shafts, rationalization of the others, and a reduction of the domestic coal price.

Since this, admittedly, is a process requiring considerable time, the importing trade has been willing to stretch out delivery terms under existing contracts as much as possible. This, however, should be a result of concerted action in which the importers have a part. So far, the coal mining industry has by-passed importers and applied for Government measures directly. Mr. Legenhausen stated that importers have already made a contribution by canceling import contracts through negotiation with exporters. He estimated that of all the pending contracts of his firm, over 10% had been canceled since September 1958.

He considers the proposed measures a discrimination against coal, because fuel oil will not be subject to an import duty. He stated that the first reaction of a large energy plant serviced by his firm was that it will substitute fuel oil for about 30-40% of its coal requirements.

No information is available at the present whether the Ruhr mining industry will make any funds available in the future for the cancellation of existing contracts, as it has in the past. If this is not done, many consumers who have contracted for U.S. coal will have to pay the duty. This, in turn, will cause a substantial increase in the cost of primary energy in West Germany.

Indirect Influence of Government on Coal Imports

When Mr. Legenhausen was asked whether he believed that even under present marketing conditions in West Germany it would be possible to fully utilize the pending licenses for 17 million tons (8 million tons for which freight contracts have already been concluded, and an additional 9 million for which they have not yet been concluded), he replied that this would be the case, if there were no Government interference, either direct or indirect,

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He stated, however, that at the present time the Government is exerting an extensive indirect influence against the conclusion of new contracts for American coal. The Federal Railroads have been instructed not to conclude any new contracts, and strong influence is being exerted on both public utilities companies which depend on the Federal Government, and those which depend on Municipalities. He believed that this pressure would prevent the sale of between 5 and 6 million tons. He estimated, however, that at least 3 million tons of the 9 million tons, for which freight contracts have not yet been concluded, would be sold in 1959, if their import were permitted.

Measures to Restrict Coal Imports

While the Federal Ministry of Economics has been considering the introduction of customs duty or a quota system without the application of duty, as a means to restrict coal imports, the Federal Cabinet has now decided to introduce a bill which will require the approval of the Bundestag and the Bundesrat, providing for the imposition, from February 16, 1959, of a duty of DM 20.00 per ton, from which certain amounts will be exempted. The following exemptions have been proposed for imports during calendar year 1959:

U.S. coal	3,500,000 tons
British coal	410,000 "
Polish coal	200,000 "
Russian, Norwegian & other coal	149,000 "
Total:	<u>4,259,000 tons</u>

According to the Office of the Senator (Minister) for Economic Affairs, Land Bremen, a final decision has not been reached regarding these exemptions. The ministries of the coastal Laender will probably demand higher exemptions when the subject comes before the Bundesrat. The Economics Ministries of the coastal Laender had raised protests against the restriction of coal imports at an earlier stage. In a letter to Federal Minister Erhard dated December 9, 1958, the Bremen Senator for Economics had pointed to the loss for the general economy of Land Bremen which would follow a substantial reduction of coal imports. He pointed to the expenses the import trade has incurred in building up a steady trade in U.S. coal; the investments in port facilities, and in ships for coal transport, and the increased cost of primary energy to industry in the Land. Hamburg, Schleswig-Holstein, and Lower Saxony have taken similar steps.

The Land Bremen spokesman estimated the actual demand of the four coastal Laender for import coal amounts to about 6.7 million tons annually, out of which 5-5.5 million tons would be for imports from the United States.

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Mr. Legenhausen felt, the decision reached recently in a cabinet meeting indicated that Chancellor Adenauer had won out over Minister Erhard who had advocated a higher quota for U.S. coal. Adenauer wanted a drastic reduction in order to take wind out of the sails of the trade unions which had called a coal miners' mass meeting on January 25 in Bochum, to protest against the existing situation and to back, among other demands of the trade unions, the demand for a drastic curtailment of coal imports.

Mr. Legenhausen feels there is still some hope that the duty-free exemptions might be revised upward somewhat during the forthcoming deliberations, especially if the Americans, as well as the four coastal Laender, will bring strong pressure to bear in that respect.


CONCLUSIONS:

In the tug-of-war between coal importers and the Ruhr coal mining industry regarding imports of coal, the latter has been in the stronger position on account of the implications of the problem in internal politics.

The effectiveness of the intended Coal-Oil cartel agreement may be defeated to a considerable extent by increased imports of fuel oil.

There still seems to be some chance that a compromise, which would be more favorable to U.S. coal imports, might be worked out before the measures proposed by the Federal Cabinet have been approved by the Bundestag and the Bundesrat.

In view of uncertainty which still exists regarding the long-term development of the demand for coal, the current endeavors of the Federal Government to assist the coal mining industry refer mainly to imports during 1959, while any decision regarding the following years is to be held in abeyance.


Harrison Lewis
American Consul General

cc: USRO/ECON, Paris (2)

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